

REFERENCE TITLE: marriage; property; debts

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

## **SB 1358**

Introduced by  
Senator McCune Davis; Representative Hershberger; Senator Johnson

AN ACT

AMENDING SECTIONS 25-214 AND 25-215, ARIZONA REVISED STATUTES; RELATING TO  
MARITAL AND DOMESTIC RELATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 25-214, Arizona Revised Statutes, is amended to  
3 read:

4 25-214. Management and control

5 A. Each spouse has the sole management, control and disposition rights  
6 of each spouse's separate property.

7 B. The spouses have equal management, control and disposition rights  
8 over their community property and have equal power to bind the community.  
9 UNLESS OTHERWISE PROHIBITED BY LAW OR UNLESS A SPOUSE EXECUTES A NOTARIZED,  
10 WRITTEN WAIVER OF THAT SPOUSE'S RIGHT TO MANAGE COMMUNITY PROPERTY, BOTH  
11 SPOUSES HAVE THE SAME RIGHT TO MANAGE COMMUNITY PROPERTY IRRESPECTIVE OF  
12 WHICH SPOUSE HOLDS TITLE TO THE PROPERTY OR IS NAMED AS OWNER OF THE  
13 PROPERTY.

14 C. Either spouse separately may acquire, manage, control or dispose of  
15 community property or bind the community, except that joinder of both spouses  
16 is required in any of the following cases:

17 1. Any transaction for the acquisition, disposition or encumbrance of  
18 an interest in real property other than an unpatented mining claim or a lease  
19 of less than one year.

20 2. Any transaction of guaranty, indemnity or suretyship.

21 3. ANY TRANSACTION OF A PARTNERSHIP, CORPORATION, LIMITED LIABILITY  
22 COMPANY OR OTHER ENTITY, TO THE EXTENT THE CREDITOR WISHES TO COLLECT THE  
23 JUDGMENT AGAINST COMMUNITY ASSETS. AN OBLIGATION OF SUCH AN ENTITY ENTERED  
24 INTO BY ONLY ONE OF THE SPOUSES IS NOT BINDING ON THE OTHER SPOUSE OR AGAINST  
25 COMMUNITY PROPERTY, OTHER THAN ON THE ASSETS OF THE ENTITY.

26 ~~3.~~ 4. To bind the community, irrespective of any person's intent with  
27 respect to that binder, after service of a petition for dissolution of  
28 marriage, legal separation or annulment if the petition results in a decree  
29 of dissolution of marriage, legal separation or annulment.

30 Sec. 2. Section 25-215, Arizona Revised Statutes, is amended to read:

31 25-215. Liability of community property and separate property  
32 for community and separate debts

33 A. The separate property of a spouse shall not be liable for the  
34 separate debts or obligations of the other spouse, absent agreement of the  
35 property owner to the contrary.

36 B. The community property is liable for the premarital separate debts  
37 or other liabilities of a spouse, incurred after September 1, 1973, but only  
38 to the extent of the value of that spouse's contribution to the community  
39 property which would have been such spouse's separate property if single.

40 C. The community property is liable for a spouse's debts incurred  
41 outside of this state during the marriage which would have been community  
42 debts if incurred in this state.

43 D. Except as prohibited in section 25-214, either spouse may contract  
44 debts and otherwise act for the benefit of the community. In an action on  
45 such a debt or obligation the spouses shall be sued jointly and the debt or

1 obligation shall be satisfied~~;~~ first~~,~~ from the community property~~,~~ and  
2 second~~,~~ from the separate property of the spouse contracting the debt or  
3 obligation.

4 E. THE COLLECTION OF A DEBT OR AN OBLIGATION THAT IS INCURRED FOR THE  
5 BENEFIT OF THE COMMUNITY MAY NOT OCCUR FROM SOLE AND SEPARATE PROPERTY OR THE  
6 EARNINGS OF A SPOUSE OR FORMER SPOUSE, INCLUDING EARNINGS OR PROPERTY THAT IS  
7 ACQUIRED AFTER SERVICE OF A PETITION FOR DIVORCE, LEGAL SEPARATION OR  
8 ANNULMENT, UNLESS THE SPOUSE OR FORMER SPOUSE MADE A PRIOR WRITTEN AGREEMENT  
9 TO BE RESPONSIBLE FOR THE DEBT OR OBLIGATION. THIS SUBSECTION DOES NOT  
10 PROHIBIT A COURT IN A PROCEEDING BROUGHT PURSUANT TO THIS CHAPTER FROM  
11 ORDERING ONE OR BOTH OF THE PARTIES TO PAY OR TO INDEMNIFY AND HOLD THE OTHER  
12 PARTY HARMLESS FROM ALL OR ANY PORTION OF A COMMUNITY DEBT OR OBLIGATION,  
13 IRRESPECTIVE OF WHETHER THAT PERSON MADE A PRIOR WRITTEN AGREEMENT TO BE  
14 RESPONSIBLE FOR THE DEBT OR OBLIGATION.